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## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Customs and Border Protection**

#### **National Customs Automation Program (NCAP) Concerning Remote Location Filing Entry Procedures in the Automated Commercial Environment (ACE) and the Use of the Document Image System for the Submission of Invoices and the Use of eBonds for the Transmission of Single Transaction Bonds**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces U.S. Customs and Border Protection's (CBP's) plan to conduct a National Customs Automation Program (NCAP) test concerning entries filed using remote location (RLF) filing procedures. The test expands the entry types eligible for RLF procedures and the port locations where RLF entries may be filed; requires the electronic transmission of invoices using the Document Image System (DIS); and requires that single transaction bonds be transmitted using eBond for RLF entries requiring a single transaction bond. This test applies only to entries "certified for cargo release from summary" filed through the Automated Commercial Environment (ACE). Remote location filing is a special entry procedure which allows importers of record and brokers with a national permit to file an entry electronically from a remote location other than where the goods are being entered.

This test is in furtherance of key CBP modernization initiatives and the development of ACE. CBP is transitioning all entry types to ACE from the legacy Automated Commercial

System (ACS). This test checks the viability, reliability and functionality associated with filing invoices using DIS; submitting single transaction bonds using eBond for RLF entries submitted in ACE; and expanding the entry types eligible for RLF procedures and port locations.

This notice invites public comment concerning the test program; provides legal authority for the test; explains the purpose of the test; provides test participant responsibilities; identifies the regulations that will be waived under the test; provides eligibility criteria for participation in the test; explains the application process; and establishes the duration of the test. This notice also explains the repercussions and appeals process for misconduct under the test.

**DATES:** The initial phase of the RLF test will begin on [INSERT 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This test will continue until concluded by way of an announcement in the **Federal Register**. Comments will be accepted through the duration of the test.

**ADDRESSES:** Comments concerning this notice and any aspect of this test may be submitted at any time during the test via email to Josephine Baiamonte, ACE Business Office (ABO), Office of International Trade at [josephine.baiamonte@cbp.dhs.gov](mailto:josephine.baiamonte@cbp.dhs.gov). In the subject line of your email, please indicate, “Comment on RLF Test FRN”.

**FOR FUTHER INFORMATION CONTACT:** For technical questions related to the Automated Commercial Environment (ACE) or Automated Broker Interface (ABI) transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at [steven.j.zaccaro@cbp.dhs.gov](mailto:steven.j.zaccaro@cbp.dhs.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization (Customs Modernization Act), in the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057 (19 U.S.C. 1411). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to introduce a new capacity or to replace a specific legacy ACS function. Each release will begin with a test and will end with mandatory compliance with the new ACE feature, thus retiring the legacy ACS function. Each release builds on previous releases and sets the foundation for subsequent releases.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in Section XII, entitled, "Development of ACE Prototypes." The procedures and criteria related to participation in the prior ACE tests remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

### **II. Authorization for the Test**

The Customs Modernization provisions provide the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the

NCAP. The test described in this notice is authorized pursuant to § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of NCAP programs or procedures. See Treasury Decision (T.D.) 95-21.

### **III. Remote Location Filing (RLF)**

Remote location filing is a planned component of the NCAP, authorized by section 411 of the Tariff Act of 1930, as amended by section 631 of the Customs Modernization Act. See 19 U.S.C. 1411(a)(2)(B). After years of testing RLF entry procedures, CBP published a final rule in the **Federal Register** that implemented RLF as a special entry procedure. See 74 FR 69015 (December 30, 2009). These regulations, codified at 19 CFR part 143, Subpart E, authorize importers of record and brokers with a national permit to file an entry electronically from a remote location other than where the goods are being entered. Under CBP regulations, only certain entry types may be filed using RLF procedures and these entries must be filed at a RLF-operational CBP location. A current listing of RLF eligible entry types may be found at the following link: <http://www.cbp.gov/trade/entry-summary/remote-location-filing/eligibility>. A current list of RLF-operational CBP locations may be found at the following link: <http://www.cbp.gov/document/guidance/rlf-operational-location-points-contact>.

At this time, the entry types that may be filed using RLF procedures for parties not participating in this test are 01 entries (formal consumption entries), 03 entries (formal consumption entries subject to antidumping or countervailing duties), and 11 entries (informal entries). Interested parties should check the CBP links referenced above for changes to the entry types authorized for RLF procedures and changes to the RLF operational CBP locations.

Under the CBP regulations (19 CFR part 143, Subpart E), importers and licensed customs brokers with a national permit must be operational on (1) the Automated Broker Interface (ABI);

an interface that allows participants to electronically file required import data with CBP and transfers that data into ACE; (2) the Electronic Invoice Program (EIP), a module of ABI which allows entry filers to transmit detailed invoice data through the Automated Invoice Interface (AII); and (3) the Automated Clearing House (ACH) which is a CBP- approved method for the electronic payment of duties, fees and taxes. RLF entry filers must be operational on ACH at least 30 days prior to filing a RLF entry. Additionally, all entries filed using RLF procedures must be secured by a continuous bond. The CBP regulations also require that any invoice data required or requested by CBP be transmitted electronically using EIP, and any payment of duties, fees and taxes be submitted through ACH. The CBP regulations prohibit combining the use of RLF procedures with the use of line release or immediate entry procedures. RLF filers may certify release from summary, i.e., file an entry summary that serves as both an entry and an entry summary. RLF filers must file electronically (including by facsimile transmissions) all additional information required to be presented with an entry and entry summary that CBP can accept electronically. If CBP cannot accept the additional information electronically, the additional information must be presented in paper form at the port of entry.

#### **IV. Request for Participation and Test Participation Criteria**

Any party who wishes to participate in this test should contact their assigned client representative and request to participate. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at [steven.j.zaccaro@cbp.dhs.gov](mailto:steven.j.zaccaro@cbp.dhs.gov), request the assignment of a client representative and submit a request to participate in this test to the newly assigned client representative. Any party seeking to participate in this test must provide CBP, as part of its request to participate, its filer code and the port(s) at which it is interested in filing RLF entries.

In order to participate in this test, an interested party must be a participant in the DIS test. Moreover, any party who participates in this test and wishes to, or is required to, submit a single transaction bond must also participate in the eBond test or use a surety or surety agent participating in the eBond test for the submission of the single transaction bond. For eligibility requirements for participation in the DIS test, see 77 FR 20835 (April 6, 2012); 78 FR 44142 (July 23, 2013); 78 FR 53466 (August 29, 2013); and 79 FR 36083 (June 23, 2014). For eligibility requirements for participation in the eBond test, see 79 FR 70881 (November 28, 2014) and 80 FR 516 (January 6, 2015).

## **V. Test Procedures and Participant Responsibilities**

Only entries filed through ACE that are certified for ACE cargo release from summary may be submitted under this test. For such ACE entries, this test seeks to determine the viability, reliability and functionality of: (1) expanding the entry types eligible for RLF procedures and the port locations where RLF entries may be filed; (2) submitting invoices using the DIS, instead of EIP, for entries filed using RLF entry procedures; and (3) submitting single transaction bonds using eBond procedures for entries filed using RLF entry procedures that require such a bond.

Under the RLF ACE test, participants will be allowed to file entry types 01, 03, 11, and 52. Test participants should check the following link to determine, for purposes of this test, which entry types are eligible for RLF procedures and the port locations where RLF entries may be filed: <http://www.cbp.gov/trade/entry-summary/remote-location-filing>. Test participants should also check the link regularly for any changes to the list of eligible entry types and port locations. Please note that the list of entry types and operational ports eligible for RLF procedures under this test is larger than the list of entry types and port locations eligible for RLF procedures under the current CBP regulations (19 CFR part 143, Subpart E). Test participants

are required to submit invoices, including pro forma invoices, required or requested by CBP using the DIS. Test participants may not submit invoice data using EIP. Test participants who file a RLF entry that requires the filing of a single transaction bond must submit it using eBond. The use of eBond for submitting single transaction bonds is mandatory and exclusive, and participants may not submit a single transaction bond through any other manner for RLF entries filed under this test. Test participants are required to follow and abide by all terms, conditions and requirements of the DIS and eBond tests.

## **VI. Waiver of Regulations Under the Test**

For purposes of this test, 19 CFR part 143, Subpart E is waived to the extent it is inconsistent with the provisions of this test notice.

## **VII. Test Duration**

The initial phase of the test will begin [INSERT 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] and will continue until concluded by way of an announcement in the **Federal Register**. At the conclusion of the test, an evaluation will be conducted to assess the viability, reliability and utility of receiving invoices and invoice data through DIS and single transaction bonds through eBond for entries filed using RLF procedures. The final results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required in 19 CFR 101.9(b)(2). Any modification, change or expansion of this test or the DIS or eBond tests will be announced via a separate **Federal Register** notice.

## **VIII. Comments**

All interested parties are invited to comment on any aspect of this test at any time. CBP requests comments and feedback on all aspects of this test, including the design, conduct and

implementation of the test, in order to determine whether to modify, alter, expand, limit, continue, end, or fully implement this program.

#### **IX. Paperwork Reduction Act**

The collection of information contained in this test has been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned OMB number 1651-0024. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

#### **X. Confidentiality**

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552.

#### **XI. Misconduct Under the Test**

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in this test for any of the following:

- (1) Failure to follow the terms and conditions of this test, or the DIS and eBond tests;
- (2) Failure to exercise reasonable care in the execution of participant obligations;
- (3) Failure to abide by applicable laws and regulations that have not been waived; or
- (4) Failure to deposit duties, taxes or fees in a timely manner.

If the Director, Business Transformation Division, ACE Business Office (ABO), Office of International Trade finds that there is a basis for discontinuance of test participation



privileges, the test participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The test participant will be offered the opportunity to appeal the Director's decision in writing within 10 calendar days of receipt of the written notice. The appeal must be submitted to the Executive Director, ABO, Office of International Trade by emailing [Deborah.Augustin@cbp.dhs.gov](mailto:Deborah.Augustin@cbp.dhs.gov).

The Executive Director will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a test participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the test participant.

In the case of willfulness or those in which public health, interest, or safety so requires, the Director, Business Transformation Division, ABO, Office of International Trade, may immediately discontinue the test participant's privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action. The test participant will be offered the opportunity to appeal the Director's decision within 10 calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to the Executive Director, ABO, Office of International Trade by emailing [Deborah.Augustin@cbp.dhs.gov](mailto:Deborah.Augustin@cbp.dhs.gov). The immediate discontinuance will remain in effect during the appeal period. The Executive Director will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

## **XII. Developments of ACE Prototypes**

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).

- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System: 79 FR 36083 (June 25, 2014).
- Announcement of eBond Test: 79 FR 70881 (November 28, 2014).
- eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions: 80 FR 5126 (January 30, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial

Environment (ACE) for the Submission of Certain Data Required by the  
Environmental Protection Agency (EPA): 80 FR 6098 (February 4, 2015).

- Announcement of Modification of ACE Cargo Release Test to Permit the Combined  
Filing of Cargo Release and Importer Security Filing (ISF) Data: 80 FR 7487  
(February 10, 2015).
- Modification of NCAP Test Concerning ACE Cargo Release for Type 03 Entries and  
Advanced Capabilities for Truck Carriers: 80 FR 16414 (March 27, 2015).

Dated: July 8, 2015.

Brenda Smith,  
Assistant Commissioner,  
Office of International Trade.

[FR Doc. 2015-17041 Filed: 7/10/2015 08:45 am; Publication Date: 7/13/2015]